

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

In re Cattle and Beef Antitrust Litigation

This Document Relates to:

Sysco Corporation v. Cargill, Inc., et al.

Case No. 22-CV-1750

Case No. 22-md-3031(JRT/JFD)

**RESPONSE TO MOTION TO
WITHDRAW AS COUNSEL**

As explained in the opposition of the undersigned Defendants (“Defendants”) to Sysco’s stay motion, ECF No. 174, Defendants do not oppose a limited stay of up to 30 days to allow Sysco to retain new counsel. Defendants respond here to Sysco’s counsel’s recent motion to withdraw, ECF No. 185, because Sysco’s filings raise new concerns about the potential for excessive delay.

Sysco cannot even say when it will retain new counsel. Sysco’s initial stay motion sought a stay of “up to 60 days,” with assurances that it expected that the process to retain new counsel would require “60 days or less.” *See* ECF No. 166, at 1. But Sysco now states in support of its counsel’s motion to withdraw that “[i]t is unclear exactly how long it will take for Sysco to find new counsel.” ECF No. 188, at 7. Sysco’s filings, both in the instant case and in a case pending in the Northern District of Illinois, claim that this is because Burford Capital has asserted the right to dictate Sysco’s choice of counsel. To be clear, Defendants remain troubled by Sysco’s allegations against Burford Capital, including allegations that Burford has substantial control Sysco’s choice of counsel and its litigation decisions. But those same filings also appear to reveal that the problem is not simply that Sysco cannot find *any* replacement counsel (temporary or permanent), but rather that Sysco

has a particular firm and a particular fee structure in mind, and that Burford Capital will not approve the fee structure with that firm. *See Sysco Mem. Supp. Mot. Limited Stay*, ECF No. 166, at 1 (Mar. 10, 2023); Am. Pet., *Sysco Corp. v. Glaz LLC*, Case No. 1:23-cv-01451, at 32–35, Ex. U (N.D. Ill. Mar. 20, 2023). This standoff over the respective preferences of Sysco and Burford appears to have no resolution in sight and risks derailing this Court’s carefully considered case schedule.

The Court should not permit this sort of indefinite delay. In deciding Boies Schiller’s motion to withdraw as counsel for Sysco, the Court should impose a structure to ensure that any withdrawal does not prevent Sysco from moving forward in this litigation in a timely manner. Defendants reiterate what they proposed in their response to Sysco’s stay motion: a stay of deadlines as to Sysco should be no more than 30 days as to the priority custodian deadline, and Sysco should be expected to “catch up” such that the stay does not impact future deadlines. Sysco should also provide regular status reports to the Court as to its progress in retaining new counsel.

Dated: March 30, 2023

Respectfully Submitted,

s/Benjamin L. Ellison

Benjamin L. Ellison, Reg. No. 0392777
Chelsea A. Bollman, Reg. No. 0401297
JONES DAY
90 South Seventh Street, Suite 4950
Minneapolis, MN 55402
Tel.: (612) 217-8800
bellison@jonesday.com
cbollman@jonesday.com

Julia E. McEvoy (*pro hac vice*)

JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Tel.: (202) 879-3867
jmcevoy@jonesday.com

Michelle Fischer (*pro hac vice*)

JONES DAY
901 Lakeside Avenue
North Point
Cleveland, OH 44114
Tel.: 216-586-3939
mfischer@jonesday.com

Tiffany Lipscomb-Jackson (*pro hac vice*)

JONES DAY
325 John H. McConnell Blvd., Suite 600
Columbus, OH 43215
Tel.: 614-281-3939
tdlipscombjackson@jonesday.com

Eddie Hasdoo (*pro hac vice*)

JONES DAY
77 W. Wacker Dr., Suite 3500
Chicago, IL 60601
Tel.: 312-269-4214
ehasdoo@jonesday.com

Counsel for Defendant National Beef Packing Company, LLC

s/X. Kevin Zhao

X. Kevin Zhao, Reg. No. 0391302
Holley C. M. Horrell, Reg. No. 0399636
Davida S. McGhee, Reg. No. 0400175
GREENE ESPEL PLLP
222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
(612) 373-0830
kzhao@greenespel.com
hhorrell@greenespel.com
dwilliams@greenespel.com

Beth A. Wilkinson
Kosta S. Stojilkovic
WILKINSON STEKLOFF LLP
2001 M Street, NW, 10th Floor
Washington, DC 20036
(202) 847-4010
bwilkinson@wilkinsonstekloff.com
kstojilkovic@wilkinsonstekloff.com

Moira Penza
WILKINSON STEKLOFF LLP
130 W 42nd Street, Floor 24
New York, NY 10036
(212) 294-8914
mpenza@wilkinsonstekloff.com

Jacob D. Bylund (*pro hac vice*)
FAEGRE DRINKER BIDDLE & REATH LLP
801 Grand Avenue, 33rd Floor
Des Moines, IA 50309
(515) 248-9000

Britt M. Miller (*pro hac vice*)
Matthew Provance (*pro hac vice*)
MAYER BROWN LLP
71 South Wacker Drive
Chicago, IL 60606
(312) 782-0600
bmiller@mayerbrown.com
mprovance@mayerbrown.com

William H. Stallings (*pro hac vice*)
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006-1101
(202) 263-3338
wstallings@mayerbrown.com

Counsel for Defendants Cargill, Incorporated and Cargill Meat Solutions Corporation

s/ Jon B. Jacobs

Jon B. Jacobs (*pro hac vice*)
PERKINS COIE LLP
700 13th Street, NW, Suite 800
Washington, DC 20005
Tel: (202) 654-1758
jbjacobs@perkinscoie.com

Susan E. Foster (*pro hac vice*)
Ulrike B. Connelly (*pro hac vice*)
Tiffany Lee (*pro hac vice*)
Hannah Parman (*pro hac vice*)
Caroline Gizem Tunca (*pro hac vice*)
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Tel: (206) 359-8846
sfoster@perkinscoie.com
uconnelly@perkinscoie.com
tiffanylee@perkinscoie.com
hparman@perkinscoie.com
ctunca@perkinscoie.com

David P. Graham, Reg. No. 0185462
DYKEMA GOSSETT, PLLC
4000 Wells Fargo Center
90 South 7th Street
Minneapolis, MN 55402
Tel: (612) 486-1521
dgraham@dykema.com

Counsel for Defendants Tyson Foods, Inc., and Tyson Fresh Meats, Inc.